as a personal service on the company of which he was president. *Territory of New Mexico ex rel Caledonian Coal Company* v. *Baker, Judge & Co.* (1905), 25 Sup. Ct. Rep. 375.

As indicated by the court the defendant company merely owned lands in New Mexico, and in no sense did business within the territory, hence the mere fact that one of the company's officers passed through the territory as a passenger on a railroad train, could not put the company itself into that territory for the purpose of a personal action against it, based on such service of summons. *Midland Pacific R. Co.* v. *McDermid,* 91 Ill. 170; *Phillips* v. *Library Co.,* 141 Pa. 462, 466. This view is generally sustained by the state and federal courts, with the exception of New York. *Pope* v. *Terre Haute Car Mfg. Co.,* 87 N. Y. 137. See also note to *Foster* v. *Lumber Co.,* 23 L. R. A. 490. Yet where a foreign corporation is plainly doing business in a state, and not merely holding property, it impliedly submits to the jurisdiction of the state courts regarding such business and may be considered as constructively present in the officer representing it in such business. *St. Clair* v. *Cox,* 106 U. S. 350, 356; *Barrow Steamship Co.* v. *Kane,* 170 U. S. 100. Some courts have held that there must be a statute providing for service of process upon an officer of a foreign corporation doing business in the state in order to give the court jurisdiction to render a personal judgment against a corporation, otherwise the consent of the corporation to such service will not be implied. *Desper* v. *Continental Water Meter Co.,* 137 Mass. 252. See also I WILGUS CORPORATIONS, 1120, note.

HIGHWAY—RIGHTS OF ABUTTING OWNER.—The Medina Quarry Co. was the owner of land in the Town of Clarendon and a highway of the town crossed this land, the land abutting on the highway for a distance of 800 feet. The Quarry Co. was the owner, in fee simple, of the land within the limits of the highway. The highway was four rods wide, was practically in the country and was not used by many people. Former owners of the land had made excavations extending a short distance into the highway and the Quarry Co. were about to place machinery and excavate within the limits of the highway for the purpose of getting at sandstone which lay some thirty feet below the surface of the highway. The entire work contemplated might, as was shown by the evidence, require seven years for its completion. The Town of Clarendon instituted proceedings to restrain the threatened interference with the highway. *Held,* that the Quarry Co. had a legal right to the stone beneath the highway and that the highway could be used by the defendant for the purpose of quarrying even though such use interfered in some degree with the travel on the highway; and that such use should be subject only to the restriction that a passageway be kept open upon the surface of the ground or by bridges of sufficient width to enable teams to pass each other thereon, and that a bond should be given to protect the town against loss growing out of injury to persons or property by reason of the interference or obstruction of the highway while the quarrying is going on, and for its restoration upon the completion of the work. *Town of Clarendon* v. *Medina Quarry Co.* (1905), — N. Y. —, 92 N. Y. Supp. 530.

It may be regarded as a settled principle that when the title to the high-

way is in the abutting owner the public acquires only an easement for the purposes usually pertaining to a highway and can use only such part of the property as is reasonably necessary to carry out such purposes. *Robert* v. *Sadler,* 104 N. Y. 229; *City of Aurora* v. *Fox,* 78 Ind. 1, 9. It follows that in such case the ownership of any material below the surface must remain in the abutting owner. *Higgins* v. *Reynolds et al.,* 31 N. Y. 151; *City of Delphi* v. *Evans,* 36 Ind. 90; *Cuming* v. *Prang,* 24 Mich. 522; *Rich* v. *City of Minneapolis,* 37 Minn. 423; and such owner may make any use of his property which is consistent with the servitude or easement of a way over it. 3 KENT COM. 433; DILLON MUN. CORP. (4th ed.), § 656 b; *Allen* v. *Boston,* 159 Mass. 324. Such use must, however, be necessary and reasonable and for a temporary purpose only. *Clark* v. *Fry,* 8 Ohio St., 358, 375; *Callahan* v. *Gilman,* 107 N. Y. 360; *Mallory* v. *Griffey,* 85 Pa. St. 275; *Raymond* v. *Keserberg,* 84 Wis. 302. The principles on which the court bases its reasoning in the principal case are no doubt well founded, but in its application of those principles to the facts in the case the court goes to an extreme scarcely warranted by the decisions which have established the principles applicable to cases of this kind.

HUSBAND AND WIFE—CONTRACTS—EFFECTS OF STATUTE OF LIMITATIONS.—A wife loaned her husband money from her separate estate and took his notes therefor. The husband died more than ten years after the notes were given. His widow was appointed administratrix of his estate and filed the notes as a claim against the estate. A special administrator was appointed who reported in favor of the allowance of the claim. This was objected to by the heirs on the ground that the notes were barred by the statute of limitations. *Held,* that under the statute the wife might sue the husband to recover her separate estate and that in as much as married women were not excepted from the operation of the statute of limitations, it ran against them the same as other persons. *In re Deaner's Estate* (1905), — Ia. —, 102 N. W. Rep. 825.

By statute in several jurisdictions husband and wife are enabled, subject to certain restrictions, to make contracts generally with each other which will be enforced at law. *Rice, Stix & Co.* v. *Sally,* 176 Mo. 107; *Bea* v. *The People,* 101 Ill. App. 132; *McDougall* v. *McDougall,* 135 Cal. 317. But in some states it has been held that the common law disability of a married woman to contract with her husband has not been abrogated by statutes enabling her to contract generally. *Whitney* v. *Closson,* 138 Mass. 49; *Hendricks* v. *Isaacs,* 117 N. Y. 411. In other states the common law has been relaxed only so far as to enable the wife to manage and enjoy her separate business or estate. *Kedly* v. *Petty,* 153 Ind. 179; *Naylor* v. *Nincock,* 96 Mich. 182. An interesting question has arisen under this legislation in states where married women are not expressly excepted from the operation of the statute of limitations as to whether the statute runs against a married woman's claim against her husband during coverture. The authorities are not in harmony on this point. In some jurisdictions it is held on grounds of public policy which discourages controversies between husband and wife that the statute will not run during coverture. *Alpaugh* v. *Wilson,* 52 N. J. Eq. 424; *Barnett* v. *Harshberger,* 105